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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,538	01/20/2006	Peter Wirth	OST-051180	7043
22876 7590 06/26/2008 FACTOR & LAKE, LTD 1327 W. WASHINGTON BLVD. SUITE 5G/H CHICAGO, IL 60607				
EXAMINER				
BARRY, ERIN P				
ART UNIT		PAPER NUMBER		
1793				
MAIL DATE		DELIVERY MODE		
06/26/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/542,538

Applicant(s)

WIRTH, PETER

Examiner

ERIN P. BARRY

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-7, 10-13 and 48-50 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 1, 2, 4-7, 10-13, 48 and 49 is/are allowed.
6) ☒ Claim(s) 50 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 18 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 4/25/2008 have been fully considered but they are not persuasive. While Ricci does not state a motor driven device for the axial movement of the workpiece, a conveyor is stated for moving the workpiece. It is suggested by prior art that a conveyor can be driven by a motor.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ricci (5,685,996) in view of King (4,345,869).

Regarding claim 50, Ricci has a guiding device for a cutting device where the device is controlled so the cutting follows a predetermined line because torch is affixed to a ring 84 and travels along the ring at a predetermined angle in excess of 360 degrees (column 5 lines 62-67). There is a portal where the workpiece can be guided in an axial direction using a conveyor (column 5 lines 1-6). Ricci states a movable ring 84 that is rotatable about the axis of the through opening with a motor (column 3 line 63 to column 4 line 2). There is a holding arm where the free end 102 carries the cutting

torch 104 and the other end 114 is fixed to the rotary part 100 (figure 3). The cutting torch can be adjusted radially in relation to the axis of the through opening by loosening the U-shaped torch holder 140. The cutting torch can also be brought into different angular positions in relation to the surface of the workpiece by loosening the thumb screw 142 and allowing the torch 102 to be tipped at an angle with respect to the vertical in a range of 0-38 degrees (column 4 lines 55-64 and figure 3). The conveyor is used to create relative movement between the workpiece and cutting torch in the axial direction through the opening (column 5 lines 1-6). Ricci does not state that the conveyor has a motor. However, King does state a conveyor with a gear motor. It would have been obvious at the time of the invention to have a conveyor with a motor because King states it is well known in the art to have a motor to move a conveyor to control movement (column 6 lines 44-65).

Allowable Subject Matter

1. Claims 1-2, 4-7, 10-13, 48-49 are allowed.
2. The following is an examiner's statement of reasons for allowance: No prior art was found that had a guiding apparatus as stated in claim 1 and where the holding arm comprised three sections where the first section extends substantially radially and is mounted so as to be displaceable in this direction by the motor, of which a second section is fixed to the first section so as to be rotatable by motor about an axis which runs in the azimuthal direction in relation to the through opening of the portal and of which a third section is fixed to the second section so as to be rotatable by a motor

about an axis which runs parallel to the axis of the through opening. Also no prior art was found that stated a carry along slide that is designed in such a way that it can adjust the workpiece in the direction of the axis of the through opening of the portal and which is movable parallel to the axis of the through opening and can be brought into carry-along connection with the workpiece.

Claims 2, and 4-7 are allowed as being dependent on base claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIN P. BARRY whose telephone number is (571)270-3634. The examiner can normally be reached on Monday through Thursday from 8am-5pm Eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on (571) 272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jerry A Lorengo/
Supervisory Patent Examiner, Art Unit 1793

EPB
6/19/2008